

Application No. 10/705,779
Amendment dated November 29, 2005
Reply to Office Action of August 1, 2005

Docket No.: 20050/0200471-USO

REMARKS

Pending Claims

Claims 1-16 are currently pending.

In this response, claim 1 has been amended to incorporate claim 3, and claim 3 has been canceled. Other claims have been amended to correct informalities. No new matter has been added.

Claim 17 has been added. Claim 17 is supported by the original claims such as claim 1 and by the specification. No new matter has been added.

Claim Objections

Claim 14 has been amended to obviate its objection. Withdrawal of this objection is respectfully requested.

Claim Rejections – 35 USC §102

Claims 1, 3, 4, 7, 8, 10, and 11 have been rejected under 35 USC §103(b) as being anticipated by Johnson (US Patent No. 4,595,392).

Applicant respectfully submits that the claims above are not anticipated by Johnson for at least the following reasons.

On page 4 of the August 1 Office Action, it states that “the manner in which the article is formed directed to an intended use of the article. Intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.”

However, note that the pad is not merely folded but attached at the longitudinally opposing peripheral edges of the back side sheet in the longitudinal direction from approximately the middle of the peripheral edges towards one end of the peripheral edges. This feature, which

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Application No. 10/705,779
Amendment dated November 29, 2005
Reply to Office Action of August 1, 2005

Docket No.: 20050/0200471-USO

appears to have been ignored and not considered, provides at least a structural difference from that of Johnson.

In Johnson, as shown in Fig. 2 (which is a cross-section taken along 2-2 of Fig. 3), a fluid impermeable baffle 8 (alleged to correspond to a back side sheet of claim 1) are not attached at the peripheral edges but directly attached to the absorbent core 6 with a fold in the middle.

Therefore, the invention as set forth in claim 1 has a clear distinction from that of Johnson and is not a mere matter of intended use. The invention as set forth in claim 1 is not anticipated by the cited prior art at least for this reason.

Claim 1 also has been amended to incorporate the feature of claim 3 so that it now has a feature, "said open space becomes smaller toward the end of the peripheral edges...." That is, the portion for forming an open space narrows from one end to another end. No such structural feature is disclosed, taught, or suggested by Johnson. This is also is a structural difference and not a mere matter of intended use. Therefore, for at least this reason, claim 1 is not anticipated by Johnson.

Furthermore, claims 4, 7, 8, 10, and 11, which depend from claim 1 directly, are not anticipated for at least the same reason as claim 1. Claim 3 has been canceled.

Claims 1, 2, 5, and 9-11 have been rejected under 35 USC §102(e) as being anticipated by McFall (US Patent No. 6,183,587).

The first point to note is that the patent to McFall discloses a sanitary napkin and not an interlabial pad. The abstract states: "[t]he method of making a shaped tube of absorbent material for the sanitary napkin, in one embodiment, involves the steps of" (Emphasis added.) Also, it is pointed out that McFall's figures show sanitary napkins and no interlabial pad. For example, Figs. 39 and 40 show a sanitary napkin (see column 5, lines 41 to 53). A person of ordinary skill in the art would know that a sanitary napkin is a separate and distinct product from an interlabial pad. See, for example, Patent No. 4595392, which describes that a sanitary napkin is designed to be worn externally over the genital area whereas an interlabial pad is designed to be positioned between the

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Application No. 10/705,779
Amendment dated November 29, 2005
Reply to Office Action of August 1, 2005

Docket No.: 20050/0200471-US0

vaginal labia and adjacent the vaginal entroitus. Therefore, for at least this reason, Claims 1, 2, 5, and 9-11, which are all directed to an interlabial pad, are not anticipated by McFall.

Furthermore, the alleged cylindrical portion 3902 in Fig. 39 is not formed by attaching the peripheral edges of the back side sheet but is formed separately from the back side sheet. As previously stated, the invention as set forth in claim 1 has a portion that is formed by "attaching longitudinally opposing peripheral edges of the back side sheet in the longitudinal direction from approximately the middle of the peripheral edges towards one end of the peripheral edges." No such limitation is taught by McFall. Therefore, for at least this reason, Claims 1, 2, 5, and 9-11 are not anticipated by McFall.

Furthermore, McFall also does not disclose, teach, or suggest a portion with an open space that narrows from one end to another as set forth in claim 1. Therefore, for at least this reason, claim 1 and its dependent claims 2, 5, and 9-11 are not anticipated by McFall.

Claim Rejections – 35 USC §103

Claims 2-16 are rejected under 35 USC §103(a) as being unpatentable over Johnson in view of McFall.

Because neither Johnson nor McFall discloses, teaches, or suggests the features as set forth in claim 1 as explained above, claims 2-16, which depend from claim 1 directly or indirectly, would not have been obvious to a person of ordinary skill in the art for at least the same reasons as claim 1.

New Claim

Claim 17 has been added. Claim 17 has similar features as claim 1, and therefore, it is not anticipated or obvious for at least the same reason as claim 1.

Double Patenting

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Application No. 10/705,779
Amendment dated November 29, 2005
Reply to Office Action of August 1, 2005

Docket No.: 20050/0200471-USO

Because of the provisional nature of the obviousness-type double patenting rejection, Applicant will address this rejection (by, for example, filing a terminal disclaimer) when all of the pending claims are allowable except for the double patenting rejection.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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